

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2197 of 1982

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

S.C/S.T BANK EMPLOYEES ASSOCIATION

Versus

STATE BANK OF SAURASHTRA

Appearance:

MR KK SHAH for Petitioners

MS VP SHAH, appearing for MR BR SHAH for Respondent

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 25/06/96

ORAL JUDGEMENT

Heard learned counsel for the parties. The grievance of the petitioners is that though the reservation scheme for promotion of SC and ST has been accepted by the respondent-bank with effect from 1.3.78, but actually effect of the same has not been given to the petitioners. The learned counsel for the respondent stated that reservation policy has been accepted on

1.3.78, but the order in this respect has been made on 29th June, 1978. Prior to this, a written test for promotion from the clerical cadre to the Officer Gr.I cadre had been conducted on 9.4.78, and as such, the bank has decided to hold a separate test for SC and ST employees at an early date to fill up reserved vacancies by giving concession to the extent of 5% in qualifying criteria in written test and 10% in the interview. In this process, time has been taken and the promotions have been made of general candidates in August 1978 and October 1978, whereas promotion of reserved candidates have been made in February 1979. The promotions had been given to the reserved category candidates to the extent of percentage laid down. The grievance of the petitioners is that they should have been given promotion from deemed date and in accordance with the points of Roster, and the promotion of petitioners No.2, 4, 5, 6 & 7 to the next higher post is of no significance. The petitioner No.3 could not be promoted as he was not found suitable. It has further been contended by the learned counsel for the respondent that the petitioner No.2 has further been promoted to the next higher post. It has been contended that this Special Civil Application is of the year 1982 and the petitioners have failed to show how any of their rights have been affected by not giving them seniority from the deemed date. On the other hand, learned counsel for the respondent contended that the petitioners have got the promotions in regular channel on the basis of seniority assigned to them and none of their rights have been violated.

2. I have considered the submissions made by the counsel for the parties. The counsel for the petitioners contended that the respondent be directed to implement the scheme of reservation with effect from 1.3.78 and to give benefit thereof to the petitioners by giving them due deemed dates of promotion and to give due places in the seniority according to Roster alongwith all the consequential and incidental and monetary benefits. I have given my thoughtful consideration to the submissions made by learned counsel for the petitioners. The petitioners' counsel has failed to give out that during the course of assignment of seniority to the petitioner on the basis of the date of promotion, any of the rights of promotion has been denied to them. On the other hand, as stated earlier, the petitioners have been promoted to the next higher post also during all these years. In the absence of any material showing any prejudice caused to the petitioners, merely on this technical ground, this Court should not interfere in the matter. More so, when the promotions to the SC/ST candidates to the extent of

percentage provided had admittedly been given. The petitioners' contention that the seniority has to be given with reference to the deemed date of reservation scheme is difficult to accept at this juncture for another reason. In case this prayer is accepted, then this Court will undo the settled position. On the basis of seniority list as prepared, many persons have been promoted including petitioners. Now if this prayer is accepted, then the position of many persons who are not before this Court is likely to be affected in the seniority list. Those persons who are likely to be affected by grant of this prayer have not been impleaded as parties to this petition. Taking into consideration the facts of the case in totality, I do not find substance in this Special Civil Application, and the same is therefore dismissed. Rule is discharged.

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(sunil)